

**BOROUGH OF DUMONT  
BERGEN COUNTY, NEW JERSEY  
RENT LEVELING BOARD SPECIAL MEETING  
REVISED MINUTES – MARCH 21, 2011**

**Flag Salute**

**SUNSHINE LAW:** The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time and place of this Rent Leveling Board meeting of the Borough of Dumont having been sent to *The Record*, the *Press Journal* and posted on the Borough website and in the Borough Hall on December 17, 2010.

**ROLL CALL:** Michael Falcone, Judy Parker, Albert Taxter, Irwin Buchheister, Lillian DeCristofaro, Coleman Szely-present.

Also present at the meeting was Monica Cho, Board Attorney; Marty Caspare, Council Liaison to the Rent Leveling Board and Kathy Schaefer, Board Secretary.

Copies of the Minutes of the February 14, 2011 minutes were forwarded to the board members prior to the meeting.

Motion to approve the minutes of February 14, 2011: Ms. Parker,

Second: Ms. DeCristofaro

All in favor: Aye

Copies of Ms. Cho's invoice for the month of February 2011 were forwarded to the board members prior to the meeting.

Motion to approve the invoice for payment: Ms. DeCristofaro,

Second: Mr. Szely

All in favor: Aye

**Other Business:**

**Tenant Complaint Hearing.** The tenant complaint hearing commenced at the February 14, 2011 meeting and a special meeting was called for discussions regarding this issue. Present at this meeting are Mr. Vincent Salvatore, attorney for the landlord, and Mr. John Cangiamila, the landlord.

Mr. Falcone asked if anyone had any opinions they want to share with the Board; one person at a time, no interruptions. We will go around the table.

Ms. DeCristofaro advised that she understood that Ms. Matula is entitled to a rent decrease because of the electricity usage that she is now incurring, the extra electricity and that has been agreed to by all parties concerned. Mr. Salvatore said that he thought that this was a continuation meeting; Mr. Falcone stated that it is not a continuation

meeting, it is a special meeting. Mr. Salvatore stated that the landlord had submitted documents and that the landlord was going to testify to them and that is why they submitted them; he just wanted to make sure that the landlord would be able to testify. Mr. Falcone asked if he wanted the landlord to testify first so that he could leave. Mr. Salvatore stated that he was not leaving, that he would wait until the meeting was over. He also stated that the meeting could be held in whatever order the Board wanted.

Mr. Falcone asked Ms. Cho if they submitted the documents that we asked for. She advised yes and that the board secretary had forwarded copies to all the board members. She stated that in terms of order as to how the meeting should be conducted, if you, the chairman, would like to go first, you can have him present and then perhaps the Board might have more thoughts.

Mr. Falcone advised that the landlord was going to speak first. Mr. Cangiamila was advised that he was still under oath from the last time. Mr. Falcone asked if Mr. Cangiamila was the owner of the building; he responded yes my father; Mr. Salvatore stated he is the owner of the corporation. Mr. Falcone asked how long he has owned this building; Mr. Cangiamila stated since 1996. Mr. Salvatore asked Mr. Cangiamila if he submitted bills from PSE&G for before and after the installation of the water heater. Mr. Cangiamila stated yes and Mr. Salvatore asked if there was a decrease in the cost based on the hot water consumption. Mr. Cangiamila there was a decrease by between \$350 to \$450. Mr. Salvatore asked other than the separate meter installed for Ms. Matula, were there any other changes to the building that would have caused that bill to change one way or the other, up or down, any other changes. The landlord stated there were no other changes. Mr. Salvatore stated so that is an accurate reflection of what the costs were prior to the installation and afterwards and it is your testimony that there is a \$3 to \$400 difference based solely on the hot water usage. Mr. Cangiamila stated yes; Mr. Salvatore asked based solely on the hot water usage; Mr. Cangiamila stated yes, based on the hot water only. Mr. Salvatore stated that there has come a time, over the last 10 to 15 years, that you had to do work concerning the bathroom in Ms. Matula's and the apartment underneath. The landlord stated that they had made repairs to her bathroom since they had a fire there in 2000, approximately three times; two times it was completely gutted out, her bathroom and the one underneath hers. The guy downstairs, he has a house, and in the winter time he comes back here. He called me this past September for example and says his bathroom is trashed. The landlord asked him what he meant and went down to look at it himself. His (Mr. Warren Bruno) ceiling, everything, the walls and tiles, part of his kitchen, just collapsed from the water, there was so much water in there, his floor was literally full of water. Mr. Salvatore asked the landlord if he has had that problem with any other apartment in the building. The landlord states no, we have no problem, I believe my plumber has been there maybe once in 16 years for a clog for another tenant, who where she used to live, told her to put coffee grinds in there. Otherwise my plumber has never been there to unclog anybody's toilet, sink, anything; just for her, he has been there several times just for her. Mr. Salvatore asked if the Board had any questions for Mr. Cangiamila.

Mr. Falcone stated that he has questions. He said to Mr. Cangiamila, I asked you how long you have owned the building, you said '96, your dad. Mr. Cangiamila stated yes, his father owned the building and he takes care of it for him. Mr. Falcone asked how long as he been managing the building; he stated since then. Mr. Falcone stated you have been managing the building since 1996, not your dad; the landlord replied yes. Mr. Falcone stated that the last time you were here, you and I discussed the manner in which you repair this bathroom. You said you gutted the bathroom. The landlord said they gutted the bathroom, we re-sheet rocked it, where the tub is we put Wonder board. He stated one of the problems with Ann is that she likes to mop her floor about probably 50, 60 times a day with hot water and what that does, the linoleum is destroyed. Mr. Falcone asked if there was linoleum in the bathroom. The landlord stated no – tile in the bathroom, but outside of her living quarters, is linoleum; we had to redo her floor three times with linoleum. And this past time in September, he had to change about three or four of the studs, 2X4s that protrude from the bathroom into her living quarters because the 2X4s were just rotted so when you stepped right on the saddle of the bathroom door, when you step there you would go through it. Michael, who does all of the repairs for us, had to repair all the 2X4s. This is the third time we had to redo the floor. Mr. Falcone asked what about this hole that she keeps talking about. The landlord stated he did not know what hole she is talking about. Mr. Falcone stated that she mentioned it a couple of times. The landlord stated there is no hole, he fixed everything. Mr. Falcone asked if he had documentation on all these repairs, bills and invoices. He stated yes, he did not have the ones from this past September, because they are with his accountant but he should have it back within a day or so and he can bring them here for you. Does it say exactly what was done and how it was done? The landlord stated yes. Mr. Falcone asked about the plumbing bills; the landlord stated the plumbing bills, Jack had to fix a few odds and ends but everything is with my accountant. Mr. Falcone asked if he had all the bills for her apartment. The landlord stated yes, he repaired upstairs, her bathroom, her floor, her living quarters and downstairs too. Mr. Falcone asked if he could pass the bills onto us for the plumber, the carpenter work, the new linoleum and for the tile work, the wonder board and everything else. Mr. Falcone stated that the plumbing, the piping in the building, the building is an old building, you mentioned about new piping. The pipes from her apartment obviously go down to apartment below, they are on top of each other right. The landlord answered yes. Mr. Falcone asked if the piping was replaced in the apartment below her and above her. The landlord stated no, I don't remember about saying anything about replacing the plumbing. We had to replace the drain because she has the habit of washing her clothes in the tub and she uses bleaches and chemicals and they actually ate the trap underneath the tub, it was just deteriorated, so we had to go downstairs because her tub was upstairs, we had to go through the; Mr. Falcone interjected he thought the landlord had said he had to put new pipe, new copper pipe. The landlord said they did, the last time they put everything new, but one of the problems with her is she has a habit of washing her clothes and using detergents or what-not and it just ate it up, twice, and that doesn't happen twice.

Mr. Falcone stated to the landlord, that he has to tell him that he doesn't believe those two guys that testified for you the last time; they do not look credible to me. The landlord stated that it is sad, really sad. Mr. Falcone stated that maybe it is just me; I

don't know how the rest of the Board feels about them. Mr. Szely advised that he agreed with Mr. Falcone. The landlord stated "so they are lying?" Mr. Falcone stated they are two tenants, one of which works different hours, and I find it hard to believe that they are going to the door and listening. The landlord stated that well no, one tenant doesn't have to go to the door, because his bathroom is here and her bathroom is here, so at nighttime it is quiet and you can hear everything, I've been there. Mr. Falcone stated that it is possible that Ms. Matula gets up during this time because she is an elderly person, they don't sleep well and I know from my own parents, but there is a possibility that she gets up and walks around but that is not against the law. The landlord stated that no one is saying that but to constantly run the water, I am there. Ms. Cho advised that we cannot have side conversations going on because there is a tape recorder going on, so take it one person at a time. Ms. Cho stated that the witness is standing at the door and she doesn't know if we wanted him out of hearing. Mr. Falcone asked Mr. Salvatore if he wanted him here. Mr. Salvatore stated yes. Do you want him to testify again? Mr. Salvatore said he would wait until Mr. Falcone is done. Mr. Falcone advised he had no other questions for the landlord; does the landlord have anything else to say, he responded no.

Mr. Salvatore advised Alan R. Scher that he was still under oath from the last time you were here. Mr. Salvatore asked Mr. Scher, who had testified at the last meeting and lives right next door to Ms. Matula, since the last meeting you were here and up to today, is there still a continuous running of water. Mr. Escher responded yes. Mr. Salvatore asked what hours of the day; Mr. Scher stated 2:30 in the morning til maybe 3:00 when she shuts it off for about an hour, re-does it again, today she was running it, if you go over there you can still smell the detergent still coming from her room. So she is in there constantly doing laundry or whatever she is running the water for. My whole problem is that I can't sleep at night, she constantly runs the water and I have asked her several times to stop running the water and she just ignores me; I feel I have rights too and I understand she is an elderly lady but something has got to come to an end. Mr. Salvatore asked Mr. Scher if he worked for the landlord; Mr. Scher said no. Mr. Salvatore stated you are just a tenant and you have been there for a while? Mr. Scher stated yes. Mr. Salvatore asked the noise you hear at night, it's not somebody walking around, it is water. Mr. Scher stated no, it is just water running.

Mr. Falcone stated to Mr. Scher, so you are suggesting she is doing laundry in her apartment instead of downstairs because you smell detergent. Mr. Scher stated that it is pretty obvious when she is walking across the street with a bag full of wet clothes and she is just throwing them in the dryer. Several people in the apartment building have stated to me that they have carried her clothes over to the laundromat and threw them in the dryer, you know, you feel sorry for the lady. I am not the only one; there are three other people there in the building who know this. Mr. Falcone asked how long he has lived in the building; he stated for ten years. Mr. Falcone asked if this has only just started, Mr. Scher stated no, it has been going on for eight years. Mr. Falcone asked so why now all of a sudden is it an issue. Mr. Scher stated I guess because the water bill is too high. Mr. Salvatore stated because you brought us here. Mr. Falcone asked Mr. Scher, you have been living here eight years now; all of a sudden it is bothering you. Mr. Scher said he has put up with it for a while and was wondering where the water was coming from, the

bathtub clogged up the first time, three months later; it got clogged up again, wait til the plumber comes. Mr. Falcone asked if he lived next door to Ms. Matula, he responded right next door, when her bathtub gets plugged up, my bathtub plugs up. Mr. Salvatore stated that he would just like the record to reflect that the only reason it is only coming up now is that you told them to come here. You filed a complaint against him; that's why it's coming up now. Mr. Falcone stated but you put the water heater in now; after eight years, you put the water heater in. Mr. Salvatore stated to Mr. Falcone that it's obvious that he has made up his mind already, so he is not going to go any further.

Ms. Ann Matula arrived at the meeting at 7:25pm.

Mr. Falcone told Ms. Matula that she wasn't here when we just talked with John, the landlord, and Alan, your neighbor. John reiterated what he said before about the repairs. You have a linoleum floor in your kitchen which you mop? She stated that it is not a mop, yes it is a mop. He asked her how often she mops the linoleum floor in your kitchen. She advised she dry mops a couple of times a week. Mr. Falcone asked a couple of times a week? She responded yes -- a dry mop. Mr. Falcone asked a damp mop; she said no, a dry mop, in other words a dust mop. How often do you wash it with a wet mop; she responded once a week. He asked once a week; she responded yes, maybe twice if we have snow or rain. He advised her that John said she mops her kitchen floor so often that the wood rotted underneath your linoleum. She stated no, that floor was in very bad shape when she came here. Mr. Falcone asked if it was rotted before she came here. Mr. Falcone stated that was 20 years ago, she stated that the manager that was there said he was going to do it. Mr. Falcone said the floor was already rotted, she replied yes. He asked if they put new linoleum over a rotted floor. She said no, they put it over wood or something; she couldn't see, she was in the hospital at the time they came in. Mr. Falcone asked the landlord is it possible they put plywood over the existing rotted floor. He stated no, everything was done the right way; everything was ripped up with new plywood. She lived there; Mr. Falcone stated that she stated she was in the hospital; the landlord stated she lived there, she even fought with Mike. He asked Ms. Matula if she forgot what Mike did. The landlord said Mike was the nicest guy in the world, never heard him swear, and Ms. Matula made him go nuts. He tried to explain to her that when he does the tile in the bathroom, you can't walk in there.

Mr. Falcone advised Ms. Matula that Alan, your neighbor, just stated that since the last time you were here until now, that you were up until 2:30, 3:00 in the morning washing clothes. Mr. Salvatore advised that Mr. Scher did not say that. Mr. Falcone stated that he said he smelled laundry detergent in your apartment. She stated that first of all the sink is too small to wash clothes; second, her kitchen sink is not operable, I meant to tell him about it, so she is using a basin, a small basin that you can only do like underthings and little towels. Mr. Falcone asked her how about the bathtub; do you wash your wash in there; she responded no, she had stopped that a long time ago. Mr. Falcone asked so where are you doing your laundry; she responded across the street, she just came from there right now. Mr. Falcone asked washing it there and drying it there; she responded yes and I have a friend that does help me. She has our own washing machine so she comes like every two weeks and she takes it home. Mr. Falcone stated that's a good idea

to have someone helping you. She stated sometimes she can't use the dryer so then she brings it across the street. Mr. Falcone asked so then are you up at 2 or 3:00 in the morning, not that there is anything wrong with that. She stated no that she is not doing laundry, that sometimes she goes to get something cold to eat or something like that, maybe that is what he hears that noise. She stated right now she has to have some work done in the kitchen, she not used that sink in almost about a month because the man came to look at it and I told the guy that and he said he was going to tell John and I have never heard from anybody.

Mr. Salvatore asked Ms. Matula how much higher her electric bill is now than before the water heater was installed. She said good thing you asked me, today I got another one for \$158 and last time they sent me one for \$300 and something. He asked her what was your bill before the hot water heater normally. She stated she didn't have a hot water bill. He stated no your electric bill. She stated that before it was very small because PSE&G had me on a plan. He asked her about how much; she stated she didn't get an electric bill; I didn't because PSE&G had me on a plan and they paid for it. Mr. Cangiamila stated they are all approximately between \$20 and \$30. Mr. Falcone asked if she had even seen a bill, she stated no, she didn't get them because she was on that plan. Mr. Falcone asked prior to that, what was the bill, before you got on the plan, what was it \$30s, \$40s. She stated she didn't get any once Julia put her on that plan that was a couple of years ago. Mr. Salvatore asked that aside from the installation of the water heater is there anything different in the way you use your electricity; she stated no. He stated so basically the difference has been since the hot water heater was installed. She said she is not using anything differently than she had before. He stated except for the hot water heater, that's when the bills went up. She said right and he said it went from \$30 or whatever up to these numbers and that is because of the hot water heater. Mr. Falcone stated that you do know that the hot water heater has to keep the water hot 24/7 whether she uses it or not, when the water gets cold the hot water heater will; Mr. Salvatore stated to Mr. Falcone, well you are a knowledgeable man, it is not going to cost you \$150 just to keep the pilot light going. Mr. Falcone stated there is no pilot light, it is an electric hot water heater and there are elements in it. Mr. Salvatore stated he understands. Mr. Falcone stated and she has to keep the water hot 24/7; I don't know what the temperature is on. Mr. Salvatore stated that she had a pretty good lawyer here. Mr. Falcone stated that he does not know what the temperature is set on the hot water heater, perhaps it could be lowered, perhaps it is too high. Mr. Salvatore stated that he had no other questions. Mr. Falcone stated that if the temperature is set very high, the water heater has to work harder; it is just a suggestion.

Ms. DeCristofaro asked if she could ask her question. She stated that she just wanted to know that our only concern with all of this testimony is whether she is entitled to and how much if we think so, how much her rent decrease should be for having a hot water heater installed in her apartment. Mr. Falcone stated that that is exactly right, that is our only concern. Ms. DeCristofaro stated so that is our only concern, not whether she does her laundry in the tub, whether it runs 24/7, what she is entitled to. Mr. Falcone stated that our job is to enforce the rent leveling code as it is in the town of Dumont. Ms. DeCristofaro stated second question, since we agree that she entitled to a decrease in her

rent for the installation and the cost of heating her own hot water, how do we come to that. We have to come to a fair and equitable for the landlord as well as the tenant. Mr. Falcone said that we have to look at all the evidence and assess the evidence and we have to decide who is credible and who isn't credible. Ms. DeCristofaro asked credible about what, Mr. Falcone stated the evidence. Mr. DeCristofaro stated that she has the hot water heater, that's credible, and it is costing her electricity to go up because she has the hot water heater. Ms. DeCristofaro stated so then we have to make a judgment on how much that hot water heater is costing her and since it went up astronomical according to her own figures here, can we then decide whether there is a problem and then make a judgment on whether there is a problem that she has created or the landlord has created or the meter has created. So do we first determine that that is where the issue begins, determining where the problem arose, her usage, the meter usage or a defective hot water heater. In other words the testimony is relevant to a certain extent but most of it is a repeat of what we learned last week and it depends on how we accept it. When one looks at an electrical bill that went from \$23.15 in September, the month that it was installed and then it goes up to \$91 the following month, \$152 after that, and \$208 the month after that, using your figures that you gave us Ms. Matula, do we have to assume that there is a problem with the meter or with the way the water is being used. Can this thing run 24/7 for no reason at all. Mr. Falcone stated that yes, it has to keep the water hot at whatever temperature the water is set at. Ms. DeCristofaro stated do we have an average cost for something like this; Mr. Falcone stated he does not know how energy efficient this hot water heater is. Mr. Cagliamari stated that it was very efficient, it is energy efficient; it doesn't cost that much to keep the water hot like that. Mr. Falcone stated that it sounds ridiculously high. Mr. Cagliamari stated it is extremely ridiculously high. Mr. Falcone asked if it was inspected, did the electrical inspector look at it, is it hooked up right. Mr. Cagliamari said yes, everything is done the way it was supposed to be done. Ms. Parker asked how many gallons is the tank, the landlord stated it is a 30 gallon tank, one of the problems is that it is constantly running. Mr. Falcone asked why he installed a 30 gallon tank in her apartment, it is so big. The landlord said for that reason, water usage. If he had put in a 10 gallon tank she would have complained it was too small. Mr. Falcone stated he thinks that is the problem. The landlord stated it is not the problem, if he put a 100 gallon tank in there, he would bet a million dollars that it would be empty in two to three days. Ms. DeCristofaro stated but that it is there. Mr. Falcone stated that keeping 30 gallons of water hot is not the same as keeping 10 gallons of water hot. Ms. DeCristofaro stated is that the issue, do we have any kind of energy figures we can get on this thing. Mr. Salvatore stated that he understands that the Borough's requirement is a minimum that you can have is 20 gallons. The landlord stated that it is x amount of hot water per minute. Mr. Salvatore said he is just telling you what he was told. The landlord stated that the 30 gallon has two elements to heat the water, one on top of the other and they do not run together. Mr. Falcone asked if this was a 240 volt; the landlord stated yes, he believes so. Mr. Falcone asked if she had a circuit breaker box within her apartment. The landlord stated yes; Mr. Falcone asked if it was hooked to that box or to the one downstairs. The landlord stated to the one inside her apartment. Ms. DeCristofaro asked if she has her own meter and if it has been checked by PS&G. The landlord stated that when he spoke to them, they don't give a tenant's information, but they realized that was the reason why the electric bill was so high and I explained to them

and the guy did not question me any longer. Ms. DeCristofaro asked if you did question him whether the meter was reading it accurately. He stated he spoke to the gentleman, the same gentleman that probably had spoke to her, she probably had him call him.

Ms. DeCristofaro stated that her next question is with this hot water heater, most when they are energy efficient, they tell you how much it should cost per year to run on a 30 gallon tank; do you have any figures of that nature. He stated that he does not have that, he stated he knows it was the highest efficiency one that was out there. He actually knows the situation and that is the best energy saving I could possibly get. Ms. DeCristofaro asked you don't know what any cost, what it's anticipated costs were for running that hot water heater. That, he said, he honestly doesn't know. Mr. Falcone stated that he worked in a park, we put 10 gallon water heaters in for the ladies and men's room in the park, you don't put 30 gallons in for one woman. Ms. DeCristofaro stated her point is we have to come to a conclusion as to whether she is entitled to a rent decrease; how are we going to calculate that rent decrease. Mr. Falcone stated that based on the difference in the electric bill which is quite a bit so this is going to be quite difficult.

Mr. Taxter stated that the lease said to approve the rent set forth, and the landlord decreased it \$10. Ms. Cho interrupted to state that the only reason the rent was decreased \$10 was because the landlord had charged more than the CPI permitted, it had nothing to do with the hot water heater. Mr. Taxter stated the only way he sees it personally is you take the gas bill January through into September, break it down, divide it up, come up with a figure, put 10 apartments into it and that's where her decrease would be. Ms. Parker advised that no it's not, you are talking January 2010 or January 2011. Mr. Taxter said we have to have an idea of how much each tenant costs. Ms. Parker stated but your date range, did you say January '10 or January '11, but that included one tenant's excessive use. Mr. Taxter stated he said January '10 through September when they put in the heater. Ms. Parker stated that it was September 10 when the water heater went in. Mr. Taxter stated so then you take the gas bills right through September -- nine months, and you break it down into 10 apartments. Mr. Salvatore advised that there were 18 apartments. Ms. Parker advised then you can't do that because you are then throwing in some of Matula's excessive water use. If you wanted accurate usage by everybody else, I think you would go from September 2010 forward to get an idea of average water usage. Ms. Parker stated she had one other question on this topic, the heat for the entire building, is that gas? The landlord stated yes, she asked if that was on the same meter as the gas for the hot water. The landlord stated my hot water, hot water for everybody else other than Matula. Ms. Parker stated these bills that you presented us where you circled gas usage, is that including the heat because she noticed the heat. The landlord stated the hot water is heated by the gas. Ms. Parker stated one meter for the heat system and the hot water for everybody else in the building. He stated right. Ms. Parker stated that included in this figure you've got the gas heat and the water heater, so we would have to break this down even further to find out which portion of this is for the hot water heater for the rest of the building other than Matula. Mr. Salvatore stated he does not think you have to go that far because if you are looking, it's everyone's heat and before September 10, everyone's hot water. The only difference now is you are taking out of that equation Ms.



Matula's usage, so he doesn't think that you have to go through that, if it decreases X dollars, there is only one variable and that's her usage. Mr. Falcone asked if the heat was on in September, the landlord said no, they usually turn it on in the beginning of October when it turns cold. The landlord stated he knows the law says October 15 through April 15, but if it is still cold at the end of April, he does not turn it off.

The board secretary stated that the letter Mr. Salvatore sent to the Board, he has the bills for February, 2010, March 2010, I have April 2010, September, October, November and December 2010. She thought there were 19 tenants, Mr. Salvatore stated no 18. She stated she divided those amounts by 19, so in February, his bill was \$1278 or \$67.30 per tenant but that would change now because it is 18. In March it was \$1212, that would be \$63.80 per tenant. If you were to compare March, because that is a cold month, to maybe November or December, the difference in his bills, the one for November is now \$15.92 a tenant. The one in December is \$41.69 a tenant. She stated that obviously you can't go from bills that are \$1200 down to \$120, \$119, \$302, \$792. It would just seem to her that what is missing here between the two is the water usage for Ann Matula who is now paying her own way. Being we do have to decrease according to the ordinance, obviously these numbers have to be done again, but if you are looking at March 2010 that equals the \$63.80 and for December 2010, \$41.69, it would roughly be about a \$20 decrease. She asked Mr. Taxter if that answered his question, he stated that he came up with \$22. She stated she divided it wrong, did he divide by 18, he stated yes. Ms. DeCristofaro advised she had divided by 18 and that's what she came up with too.

Mr. Salvatore advised that he was glad we did that because now he thinks everybody is on the same page, but I am just asking if you decide that's the amount of the decrease, you are basically deciding that Ms. Matula had nothing to do, did nothing wrong, did not over use her hot water. Ms. Schaefer advised that no, she is not at all but it says in the ordinance that if you change somebody's utilities, they are entitled to a decrease because of that. Now her utilities have obviously been changed, she has her own heater, I think we all agree on that, she is the only one in the building with her own heater; that was explained by the landlord the last time, well the well ran dry and he didn't get them put in the other apartments. But right now, she is the only person with a heater. Mr. Salvatore stated that unfortunately she will have to be the only one now because if he wants to change the other hot water heaters, we are going to be in the same boat so I don't know what to tell him. She stated I don't know if you will, because you are saying she is probably the biggest user. Mr. Salvatore advised that he would like the Board to at least consider that this is not the average tenant, Ms. Schaefer stated that she realized that. Mr. Salvatore stated this is someone who is overusing a utility. If the landlord didn't realize that he was raising her rent by doing this, that's one thing but to say he has to suffer the whole brunt of it because she overuses it, he thinks that you have to take into consideration the usage, none of that has been controverted, she says the only difference in her electric is the hot water and even if the thing has to keep warm, it is no where near that, she is overusing it compared to the other tenants. He stated we tried not to do anything, we tried not to evict her, we are trying to cooperate but it comes to a point where it is going to end up in an eviction and we don't want to do that. He stated to the Board that he wished we would take that into consideration.

Mr. Falcone stated okay, let's keep going with the testimony; Irwin, do you have anything. Mr. Buchheister stated that he knows we have gone over this before, but how is the hot water heater, gas or oil. The landlord stated that it was electric. Mr. Buchheister stated your hot water heater, the landlord stated his for the building is gas. Mr. Buchheister stated gas, both for hot water and steam? The landlord said to heat the building. Mr. Buchheister asked if he had a boiler, the landlord said yes; Mr. Buchheister asked how he heated the hot water, the landlord said gas, it is heated separate. Mr. Buchheister stated so you have a separate tank for hot water and separate for steam; the landlord responded yes. Mr. Buchheister asked one electric meter, one gas meter, the landlord responded yes. Mr. Buchheister stated that your electric bill was reduced; the landlord stated actually the gas bills, approximately \$300 to \$350. Mr. Buchheister stated it looks like it was at the same time her electric bill went the opposite way, the landlord responded right. Mr. Buchheister asked now is it possible the heat was off, the temperature was off, was that what the difference was. The landlord stated no that is not the difference. Mr. Buchheister said in other words the difference of your bill was that hot water; the landlord stated yes. Mr. Buchheister stated that in order to help both sides is it possible for you to put in a solenoid valve or a time clock so she can't use the water between 12 and 3 or 9 and 3 that would help cutting down her water. He stated she says she does not know whether she does it or not. Ms. Cho stated that she just wanted to interject at this time, that is not something that the Board can direct. Mr. Buchheister stated that it was a suggestion to try to alleviate the problem between the tenant and the landlord. Mr. Falcone stated that would be going against her rights. Mr. Buchheister asked what do you mean against her rights. Mr. Salvatore stated that it would be. Mr. Falcone advised that the bottom line here is she is entitled to run her water anytime she wants, whenever she wants, as much as she wants. Whether they like it or not, she is entitled to do that. Mr. Buchheister stated but this is not a normal situation and in order to alleviate an unnatural situation, the man put in a separate water heater that is costing her a fortune; so why can't we as a suggestion to put a timer in so she can't use it between certain hours and that would stop him from saying she runs it all night long. Ms. Parker stated that is not our purview, it is not our responsibility, we are to discuss whether the rent should be lowered; that's all our responsibility is. Ms. DeCristofaro stated we already discussed that it should be lowered, now we have to determine by how much.

Mr. Falcone turned the conversation over to Mr. Szely, are you on the same page as us. He stated pretty much the same page with Ms. DeCristofaro and Mr. Taxter. To him, it is a matter of determining what amount the rent should be lowered.

The conversation was turned over to Ms. Parker who advised she had already asked her questions. Mr. Falcone asked her if she was on the same track with us that we just have to determine how much to lower the rent. Ms. Parker stated she is more on if the rent should be lowered and not how much. Mr. Falcone asked so you don't believe we should enforce the rent leveling law about lowering the rent. Ms. Parker advised that there are a lot of extenuating circumstances. Mr. Szely asked a procedural question to Ms. Cho, do we need an unanimous opinion; Ms. Cho stated no it is just a majority opinion, but she is

entitled to vote any which way and she is entitled to share her opinions. Mr. Szely said what he meant was if there was dissension do we need a unanimous vote, Ms. Cho stated no, just a majority.

Mr. Falcone asked if we are ready to make a motion, is someone ready to put forth a motion on how much the rent should be lowered. Mr. Szely advised that he thinks the first motion should be should the rent be lowered. Mr. Falcone stated would someone like to make a motion on whether the rent should be lowered.

Motion to determine whether the rent should be lowered: Mr. Szely

Second: Mr. Taxter

Roll call vote: Mr. Taxter, Ms. DeCristofaro, Mr. Szely, Mr. Falcone – Yes

Ms. Parker – No

Motion passed.

Mr. Falcone stated that we have our motion 4 to 1 that the rent should be lowered, now we have to determine how much. Ms. DeCristofaro asked if we could confer on this. Ms. Cho advised that the discussion has to be on the record. Ms. DeCristofaro asked Mr. Buchheister how much he came up with for the total from February to August invoice on the gas bill. Mr. Taxter advised he came up with about \$4,000, Ms. DeCristofaro said she had come up with \$4,025; Mr. Taxter stated that divided by 18 equals about \$22, give or take. Ms. DeCristofaro asked Mr. Taxter if he had broken down the other months, September, October, November, December. Mr. Taxter stated that he didn't. Ms. DeCristofaro stated that she had broke it down, for the period from February to August, she came up with \$4,025, but she stated she did it with 19 people, so it is off, it should have been 18. Ms. Cho stated what is the total amount you have, Ms. DeCristofaro advised \$4,025.63 for February to August. It should be divided by 18. Mr. Falcone asked what did you come up with. She said she didn't, she had divided it by 19. She said then what she did, she broke it down for September, October, November, December when the hot water heater came in. She came up with a figure of \$1,324.88. She divided it by seven for the \$4,000 and four for the \$1,300 and then she came up with a difference between the two and came up with \$11, \$12. Mr. Falcone stated he did not understand how she did that. She stated that the total of \$4, 025 from February through August, which was seven months. She divided that by seven to come up with a monthly total, then divided that by 19. Then she did the four months after that and came up with \$1,324, divided that by the four months, divided that by the 18, in other words one less because she is out, then the difference between the two was \$11 or \$12, but it is not right, because of the 18 in the first calculation. Ms. Parker asked that the last four months that you are dividing by, are those summer months. Ms. DeCristofaro stated they are September, October, November, December, so she is looking at that November and December would probably cover February and March. Ms. Parker stated so then you are including the heat bills in that. Ms. DeCristofaro stated that everything is there, Ms. Parker stated you are including heat, gas heat.

Mr. Falcone asked if we had numbers for the beginning of the year. Ms. Schaefer advised that then the 19 would have been right for the beginning of the year because you

were counting her in there so that should have been 19. Ms. DeCristofaro stated she thought there were only 18 apartments. The landlord and Mr. Salvatore advised there are 18 apartments, including her. Ms. Schaefer stated so then the first number should have been 18 and the second number 17. Mr. Falcone stated that we have to correct the figures, so what would 17 be. Ms. DeCristofaro stated 17 into \$331.22, in other words, then she had broken it down into a monthly amount. Mr. Falcone asked what was the total for the four months. Ms. DeCristofaro advised \$1,324.88. Mr. Falcone asked \$1,324.88 divided by 17 is how much. Ms. Schaefer left to get a calculator.

Ms. Schaefer asked what was the number \$1,324.88 divided by 17. Ms. Cho stated divide by 4 to get the monthly. Ms. DeCristofaro advised we have to get the monthly. Ms. Schaefer advised that is \$331 per month. Ms. DeCristofaro stated now divide by 17, that is what you need. Ms. Schaefer advised that it is \$19.48. Ms. DeCristofaro stated divide \$575.09 for the prior part of it by 18. Ms. Schaefer advised it is \$31.94. Ms. DeCristofaro stated now subtract the \$19.48 from the \$31.94 and that's the difference. Ms. Schaefer advised it is \$12.46. Ms. DeCristofaro stated so that is the difference if we want to go with that. Mr. Falcone asked where the \$22 came from; Ms. Schaefer advised from hers and she was doing one cold month against the other cold months and Ms. DeCristofaro did the whole year. Ms. DeCristofaro advised if we wanted to take out the summer months which exclude the heat, we could. Mr. Falcone asked if anyone else had a calculation.

Mr. Salvatore stated that before you vote, when you make your determination of how much, that's just objectively, not taking into consideration extra usage of hot water. Ms. DeCristofaro said she thought because you solved the problem now with the hot water heater in her apartment. Mr. Salvatore said okay, just wanted to make sure we are on the same page. Ms. DeCristofaro stated that you had every right to put the hot water heater in. She asked Mr. Salvatore if that sounds like something he want to work with or think on it or what. She stated that she would like to get it done tonight, because this is getting repetitious.

Mr. Falcone asked if he could speak to Ms. Cho in private. He was advised no. Ms. DeCristofaro asked what is your question, maybe she can answer it for you and enlighten all of us. Ms. Cho advised that if you have a question as to the law, you can ask that. Ms. DeCristofaro stated that it is obvious some excessive uses are being made with the electric, it can't go from \$33, \$21, \$22, \$24; the highest here is in August when you would have the air conditioner on and that is \$34 and then all of a sudden in December you have \$208.

Mr. Falcone stated that he needs to ask a few more questions of Ms. Matula. He asked how much is your rent; she stated \$755 a month. He asked her how long has her rent been \$755; she stated for a couple of months. Ms. Parker advised since July 1, 2010. He asked Ms. Matula what her rent was prior to that; she stated she didn't know, he would have it on the paper. Mr. Falcone asked the landlord if he knew it, he stated no. Mr. Falcone asked the landlord if everybody's rent went up in July, the whole building. Mr. Salvatore stated no. Ms. Cho told Mr. Salvatore that Mr. Cangiamila is required to

answer. Mr. Salvatore stated we are all out of procedure now, he doesn't know why he. Mr. Falcone stated we are not out of procedure, Mr. Salvatore said yes you are. Mr. Falcone stated he is asking the landlord was everyone's rent increased, the landlord stated whatever lease was up. Ms. Matula asked if she could ask a question: of all these increases I have been paying every month \$200, \$100, and now I got one today for \$159 and it is not even two weeks when they say they will be sending me another bill. Mr. Falcone advised in his personal opinion \$12 and even \$22 is not going to help her situation. Ms. DeCristofaro asked if he wanted us to give her \$150 a month; Mr. Falcone said no, that wouldn't be fair to the landlord, but what I am saying is I think the hot water heater is too big. Ms. DeCristofaro stated but that is not our issue. Ms. Parker added plus the fact that if she ever moves out of that apartment and he gets a tenant in there with a husband and a wife and one or two kids, a 30 gallon is going to be fine, but that is not our issue. Mr. Szely stated it is not our issue but it does help our issue to determine the amount of the rent decrease, so that does factor into it. We can't tell them to remove the hot water heater, although if it was my apartment, I would tell them to do that; however, it is not my apartment and we can't do that. But the fact that it is there, that impacts on how much we are going to determine the decrease is going to be. Ms. DeCristofaro stated do you just want to take a figure out of the air or are you going to try to calculate it. Mr. Falcone asked if there was a wall switch for the hot water heater to shut it off. The landlord said he believes so. Mr. Falcone stated there has to be by the electric code. Mr. Salvatore stated Mr. Falcone knows the answer to the question.

Mr. Salvatore asked if he could make a suggestion. She came up with a figure, why don't you do it the same way you voted. Mr. Falcone stated we are going to do that but we are having a discussion first, I am running the meeting. Mr. Salvatore stated you certainly are. Mr. Falcone asked Mr. Taxter what did he have to say. Mr. Taxter stated they were just discussing the fact that the secretary had \$22, he had \$22, now we are coming up with \$12. Mr. Falcone agreed, that is what is bothering him, the \$22 versus the \$12. The secretary advised that she had come up with \$22 because she divided by the wrong amount of people, she used 19, she didn't know it was 18. Ms. DeCristofaro stated that it is a calculation, there is some basis of fact to it and the fact that Ms. Matula lost her subsidy from Public Service, she still has the right to go get the electric and gas paid for by the state, am I correct, but that's not our issue. Ms. DeCristofaro stated that if she was 45 years old, would you be willing to give her double the calculation. Mr. Falcone stated no.

Mr. Falcone asked if someone was prepared to make a motion with an amount in it.

Ms. DeCristofaro made a motion to make a rent decrease to Ms. Matula of \$12.50: Mr. Falcone asked if anyone wanted to second the motion or does anyone want to make a different motion. Mr. Szely stated that there is no amount that we could lower it that would satisfy him. Mr. Falcone stated he also felt it was too low; Ms. DeCristofaro stated nobody seconded it, so it is a dead issue.

Motion made to go with \$22 per the calculation he wrote down: Mr. Taxter  
Second: Mr. Szely

Roll call vote: Mr. Taxter, Mr. Szely: yes

Opposed: Ms. Parker, Ms. DeCristofaro

Mr. Falcone stated he would break the tie, he is in favor of the \$22.

Motion passed.

Ms. Cho advised that there is actually another issue, is that going to be retroactive to when the water heater was installed? Mr. Falcone stated yes, I would think so. Mr. Salvatore asked Ms. Cho on what basis. She stated she was asking the Board because that was when the water heater was installed. I just wanted the record to reflect what the Board's intention was. Mr. Falcone asked if we could change the motion to make it retroactive, Ms. Cho stated you could modify his motion to make it retroactive or you can make a new motion.

Mr. Falcone asked Mr. Taxter if he wanted to modify his motion to make it retroactive from when the water heater was installed.

Motion to make the \$22 rent decrease to Ms. Matula, retroactive to September, 2010 when the water heater was installed: Mr. Szely

Second: Mr. Taxter

Roll call vote: Mr. Falcone, Mr. Taxter, Mr. Szely-yes.

Motion passed.

Mr. Salvatore asked Ms. Cho what is our appeal process, she stated she would send that to him in an email. He stated with the retroactive pay, you have made your decision and I would like to hold that and not make the payment mandatory at this point pending our appeal. If you are upheld, then it will be paid. Ms. Cho asked if he means a motion for reconsideration or talking about appealing this; Mr. Salvatore stated appeal, whatever your procedure is in the borough. There must be an appeal procedure rather than running to court. She stated you can make a motion for a reconsideration or you can make an appeal to the superior court. He stated no we are done here, he asked under your code, where does the appeal go, Ms. Cho stated that the appeal goes to the superior court, to the law division; Mr. Salvatore stated that you don't have an appeal to the Mayor and Council built in your ordinance. She stated no. Mr. Salvatore said he would still like to have it stay pending until the appeal period is over. Ms. Cho told him to send a written request. Mr. Salvatore asked that couldn't we vote on that right now. You are voting on the retroactive, he stated no, because if we pay her and we win, how do we get the money back. We will stipulate that if the appeal is upheld, it will be paid, but if we pay her ahead of time and we win, how do we get the money back. Ms. Cho stated that right now a decision has been made by the Board. If you would like to make that request in court, you can ask the court to make that decision. He stated you are going to make us go through that, can't you just agree, we have a time period for an appeal, either we appeal or we don't, if we appeal and we lose, we pay it, if we appeal and we win, we don't have to pay it; it is not brain surgery. Ms. Cho stated right now the Board has made a decision and we are not doing a motion. Mr. Salvatore asked if you are demanding that it be paid immediately. Mr. Falcone stated so that is six months, we are talking about \$120. Mr. Salvatore stated I am asking are you demanding that it get paid immediately and if so,

within what time period so I can go to court and get a restraining order. I don't want to go through that, this is not an unreasonable request. We have the right to appeal. Ms. Cho stated that as far as she knows there is nothing inside the ordinance.

Mr. Falcone asked Ms. Matula if she heard the decision the Board made. The decision we made is to lower your rent \$22 a month. Whatever differences you have to pay, the decision was to lower your rent \$22 a month, from \$755 down \$22. She stated that is not going to help her because now she has to pay one hundred something dollars. Mr. Falcone stated that is the best we can do for you, we did the best we could, we are enforcing the law based on what it is based on a calculation. You will get retroactive back to September when the water heater was put in. She stated she does not know why she is the only one with a water heater. Mr. Falcone stated that it is up to the landlord whether he wants to install more water heaters in or not. Mr. Falcone stated to her that she should try to shut off the water heater when she tries to go to sleep to try to save some money.

Mr. Buchheister stated to Mr. Salvatore that he can appeal to the Mayor and Council. Mr. Salvatore advised that was what he asked and your attorney said no. Mr. Buchheister said you can go to the Mayor and Council and if you don't like their decision, then you can go to court. Ms. Cho stated that she didn't have the ordinance in front of her but would check and get back to him. Mr. Salvatore stated that he would call the Borough tomorrow.

Motion to adjourn the meeting: Ms. Parker  
Second: Mr. Taxter  
All in favor: Aye  
Motion passed.

The next meeting of the Rent Leveling Board will be held on April 11, 2011.

Minutes submitted by

  
Kathy Schaefer  
Rent Leveling Board Secretary